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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,927

12/02/2005

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07040.0223

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7590

04/30/2009

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EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

04/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,927	<b>Applicant(s)</b> COLOMBO ET AL.	
	<b>Examiner</b> Steven D. Maki	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 60-118 is/are pending in the application.
- 4a) Of the above claim(s) 93-96 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 60-92 and 97-118 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>050405.072407.030909</u> .                                    | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 1791

- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claims 60-92 and 97-118 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 60, the claimed relationship between the geometric module and the elongated ridge is unclear. It is uncertain if (1) the geometric module comprises the elongated ridge or (2) the geometric module is separate from the elongated ridge.

In claim 105, there is no antecedent basis for "the second circumferential row". Should claim 105 depend on claim 98?

Claims 110 and 111 ambiguously refer to "the third substantially transverse grooves" and it is uncertain if another first circumferential portion is being claimed. In claims 110 and 111, it is suggested to insert --of the second circumferential portion-- after "the third substantially transverse grooves" (line 1) and change "a first circumferential portion" to --the first circumferential portion--.

In claim 112, there is no antecedent basis for "the second shoulder blocks".

- 3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1791

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Europe 758

5) **Claims 60, 63, 64, 67, 68, 70-73, 82-85 and 92 are rejected under 35**

**U.S.C. 102(b) as being anticipated by Europe 758 (EP 739758).**

The claimed tire is anticipated by Europe 758's tire. The tread of Figure 1 contains geometric module / elongated ridge as claimed. The claimed oblique grooves read on inclined grooves 1.

Japan 207

6) **Claims 60-65, 67-69, 70, 73-74 and 92 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 207 (JP 06-135207).**

The claimed tire is anticipated by Japan 207's tire. The tread of Figure 1 contains geometric module / elongated ridge as claimed. The claimed oblique grooves read on inclined grooves 26.

Fukunaga et al

7) **Claims 60-64, 66-69, 70, 73-74, 82-83, 92 and 97-98 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukunaga et al (US 6,607,018).**

The claimed tire is anticipated by Fukunaga et al's tire. The tread of Figure 1 contains geometric module / elongated ridge as claimed. The claimed oblique grooves read on inclined grooves 20. The "geometric module" in Figure 1 contains two shoulder blocks 28, 28, four intermediate blocks and two center blocks. Circumferential main

Art Unit: 1791

groove 14 is spaced from the EP. The right side of Figure 1 contains a second circumferential portion comprising a shoulder block row and two rows of inner blocks.

**8) Claims 75-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukunaga et al (US 6,607,018) in view of Ichiki (US 5,725,700) and Boiocchi et al (US 6,311,748).**

As to claims 75-81, it would have been obvious to one of ordinary skill in the art to provide Fukunaga et al's asymmetric tire tread with the claimed auxiliary block in view of (1) Ichiki's suggestion to additionally divide an elongated ridge, which like that of Fukunaga et al is delimited by steeply inclined grooves (with respect to the circumferential direction), using an additional groove such an outer end of the elongated ridge comprises two blocks instead of one block and (2) Boiocchi et al's suggestion to form a tread, which may have (a) pitching applied thereto (col. 7 lines 17-23) and (b) an asymmetrical tread pattern (col. 8 lines 50-54), such that the number of blocks increases toward the tread edge for the benefit of reducing noise.

**9) Claim 91 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukunaga et al (US 6,607,018) in view of Ichiki (US 5,725,700) and Boiocchi et al (US 6,311,748) as applied above and further in view of Diensthuber (US 5,660,651).**

As to claim 91, it would have been obvious to one of ordinary skill in the art to provide Fukunaga et al's asymmetric tire tread with sawtooth sipes and connecting notches as claimed since Diensthuber suggest disposing sawtooth sipes 10 on blocks of an asymmetric tread to provide gripping edges and using venting grooves 15 to reduce noise.

Art Unit: 1791

**10) Claims 84-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukunaga et al (US 6,607,018) in view of Diensthuber (US 5,660,651).**

As to claims 84-90, it would have been obvious to one of ordinary skill in the art to provide Fukunaga et al's asymmetric tire tread with sawtooth sipes and connecting notches as claimed since Diensthuber suggest disposing sawtooth sipes 10 on blocks of an asymmetric tread to provide gripping edges and using venting grooves 15 to reduce noise.

**11) Claims 99-106, 109-111 and 114-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukunaga et al (US 6,607,018) in view of Diensthuber et al (US 6,619,352) and/or Japan 406 (JP 56-131406).**

As to claims 99-106, 109-111 and 114-115, it would have been obvious to one of ordinary skill in the art to form the right side of Fukunaga et al's tread (which has circumferential grooves separating a shoulder block row, first inner block row and second inner block row) with the claimed fourth grooves (fifth grooves and sixth grooves) in view of (1) Diensthuber et al's suggestion to form the side of an asymmetric tread having blocks defined by circumferential grooves and transverse grooves such that the transverse grooves ("fourth grooves") separating blocks of a row of an "inner row" are offset relative to shoulder grooves ("third grooves"), it being taken as well known / conventional per se in the tread art that circumferentially offsetting transverse grooves in one row relative to another row reduces noise and/or (2) Japan 406's suggestion to provide block rows of a tread separated by circumferential grooves with inclined transverse grooves which are alternately inclined at angles  $\theta_1$  (70-110

Art Unit: 1791

degrees) and  $\theta_2$  (60 degrees or less) to thereby form trapezoidal blocks and enhance slip resistance for a wet road (abstract, figures). As to claims 114 and 115, it would have been obvious to add sawtooth sipes to the blocks on the right side of Fukunaga et al since (1) Diensthuber et al teaches adding sipes to all blocks of an asymmetric tire tread and (2) it is taken as well known / conventional per se in the tire art to add either sawtooth sipes or sinusoidal sipes to all blocks of a tire tread.

**12) Claims 107-108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukunaga et al (US 6,607,018) in view of Diensthuber et al (US 6,619,352) and/or Japan 406 (JP 56-131406) as applied above and further in view of Japan 207 (JP 06-135207).**

As to claims 107-108, it would have been obvious to one of ordinary skill in the art to incline the longitudinal sides at 1-5 degrees as claimed in view of Japan 207's suggestion to incline sides of a circumferential groove at angle  $\theta$  of 1-5 degrees to improve wandering performance.

**13) Claims 112 and 118 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukunaga et al (US 6,607,018) in view of Diensthuber et al (US 6,619,352) and/or Japan 406 (JP 56-131406) as applied above and further in view of Europe 594 (EP 114594).**

As to claims 112 and 118, it would have been obvious to one of ordinary skill in the art to use the claimed number of shoulder blocks / different sizes in view of Europe 594's suggestion to use different size block on the left and right sides of a tire tread to reduce noise.

Art Unit: 1791

Remarks

14) Applicant's election with traverse of with in the reply filed on 1-27-09 is acknowledged. The traversal is on the ground(s) that the office action has not shown how examination of claims 93-96 in addition to claims 60-92 and 97-118 would create a serious burden. This is not found persuasive because the burden was described in paragraph 1 of the office action dated 12-24-08; it being emphasized that applicant has not clearly admitted on the record that applicant's species are obvious variants. It is also noted that rejoinder will be considered upon indication of allowable subject matter depending on the basis thereof.

The requirement is still deemed proper and is therefore made FINAL.

The remaining references are of interest.

15) No claim is allowed.

16) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1791

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven D. Maki/  
Primary Examiner, Art Unit 1791

Steven D. Maki  
April 26, 2009